

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**Chris Langer,**

Plaintiff,

v.

**SFS Equities, LLC**, a California  
Limited Liability Company;  
**TMSO, Inc.**, a California  
Corporation; and Does 1-10,

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For** Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act;  
California Disabled Persons Act;  
Negligence

Plaintiff Chris Langer complains of Defendants SFS Equities, LLC, a California Limited Liability Company; TMSO, Inc., a California Corporation; and Does 1-10 ("Defendants") and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of his van and he has a Disabled Person Parking Placard issued to him by the

1 State of California.

2 2. Defendants are, or were at the time of the incidents, the real property  
3 owners, business operators, lessors and/or lessees for the USA Gas & Snack  
4 ("Gas Station") located at or about 4395 Market Street, Riverside, California.

5 3. Plaintiff does not know the true names of Defendants, their business  
6 capacities, their ownership connection to the property and business, or their  
7 relative responsibilities in causing the access violations herein complained of,  
8 and alleges a joint venture and common enterprise by all such Defendants.  
9 Plaintiff is informed and believes that each of the Defendants herein,  
10 including Does 1 through 10, inclusive, is responsible in some capacity for  
11 the events herein alleged, or is a necessary party for obtaining appropriate  
12 relief. Plaintiff will seek leave to amend when the true names, capacities,  
13 connections, and responsibilities of the Defendants and Does 1 through 10,  
14 inclusive, are ascertained.

15  
16 **JURISDICTION & VENUE:**

17 4. This Court has subject matter jurisdiction over this action pursuant to  
18 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans  
19 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

20 5. Pursuant to pendant jurisdiction, an attendant and related cause of  
21 action, arising from the same nucleus of operative facts and arising out of the  
22 same transactions, is also brought under California's Unruh Civil Rights Act,  
23 and the California Disabled Persons Act, which acts expressly incorporate the  
24 Americans with Disabilities Act.

25 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
26 founded on the fact that the real property which is the subject of this action is  
27 located in this district and that Plaintiff's cause of action arose in this district.

**FACTUAL ALLEGATIONS:**

7. The Plaintiff went to the Gas Station in August of 2014 to grab a drink and snack.

8. The Gas Station is a facility open to the public, a place of public accommodation, and a business establishment.

9. Parking spaces are one of the facilities, privileges and advantages offered by defendants to customers of the Gas Station.

10. Unfortunately, although parking spaces are one of the specifically-reserved facilities available to customers who patronize the Gas Station, there is not a single compliant van-accessible parking space reserved for persons with disabilities. Instead, there is a parking space reserved for persons with disabilities who drive smaller cars. The parking space is 100 inches in width and the access aisle is 82 inches in width. The plaintiff needs an eight foot wide access aisle for his van.

11. Additionally, the defendants have a practice of storing a large trash dumpster in the access aisle. On the day of plaintiff's visit, he could not use the access aisle because of the placement of the trash dumpster in the access aisle. The defendants, in addition to placing the dumpster in the access aisle on a regular basis, also place cones in the access aisle as well.

12. Additionally, on information and belief, plaintiff alleges that a fully compliant, van-accessible parking space once existed at this location. Unfortunately, the van-parking space reserved for use by persons with disabilities has been paved over or been allowed to fade beyond recognition.

13. The plaintiff personally encountered these problems. This inaccessible condition denied the plaintiff full and equal access and caused him difficulty and frustration.

14. Plaintiff would like to return and patronize the Gas Station but will be deterred from visiting until the defendants cure the violation. Plaintiff would

1 like to return and would have gone back but his knowledge of the violations  
2 prevents him from returning until defendants remove the violations. Plaintiff  
3 visits Riverside County often to attend conferences, auctions, meetings, and  
4 other events on a regular and ongoing basis. On the day of his August 2014,  
5 plaintiff was visiting the courthouse in Riverside. Because of plaintiff's  
6 knowledge of these barriers, he has been deterred on other occasions from  
7 returning. The Gas Station is conveniently located. Plaintiff would like to  
8 return.

9 15. The defendants have failed to maintain in working and useable  
10 conditions those features required to provide ready access to persons with  
11 disabilities.

12 16. Given the obvious and blatant violations, the plaintiff alleges, on  
13 information and belief, that there are other violations and barriers on the site  
14 that relate to his disability. Plaintiff will amend the complaint, to provide  
15 proper notice regarding the scope of this lawsuit, once he conducts a site  
16 inspection. However, please be on notice that the plaintiff seeks to have all  
17 barriers related to his disability remedied. See *Doran v. 7-11*, 506 F.3d 1191  
18 (9th Cir. 2007) (holding that once a plaintiff encounters one barrier at a site,  
19 he can sue to have all barriers that relate to his disability removed regardless  
20 of whether he personally encountered them).

21 17. Additionally, on information and belief, the plaintiff alleges that the  
22 failure to remove these barriers was intentional because: (1) these particular  
23 barriers are intuitive and obvious; (2) the defendants exercised control and  
24 dominion over the conditions at this location and, therefore, the lack of  
25 accessible facilities was not an "accident" because had the defendants  
26 intended any other configuration, they had the means and ability to make the  
27 change.

**I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against all defendants (42 U.S.C. section 12101, et seq.)

18. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

19. Under the ADA, it is an act of discrimination to fail to ensure that the privileges, advantages, accommodations, facilities, goods and services of any place of public accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a place of public accommodation. See 42 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- a. A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to remove architectural barriers where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are defined by reference to the ADAAG, found at 28 C.F.R., Part 36, Appendix "D."
- c. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by

1 individuals with disabilities. 42 U.S.C. § 12183(a)(2).

2 20. Any business that provides parking spaces must provide handicap  
3 parking spaces. 1991 Standards § 4.1.2(5); 2010 Standards § 208. One in  
4 every eight of those handicap parking spaces but not less than one must be a  
5 “van” accessible parking space, *i.e.*, having an eight foot access aisle. 1991  
6 Standards § 4.1.2(5)(b). Under the 2010 Standards, one in every six  
7 accessible parking spaces must be van accessible. 2010 Standards § 208.2.4.

8 21. Here, the lack of a van-accessible parking space is a violation of the  
9 law.

10 22. A public accommodation must maintain in operable working condition  
11 those features of its facilities and equipment that are required to be readily  
12 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

13 23. Here, the failure to ensure that the accessible facilities were available  
14 and ready to be used by the plaintiff is a violation of the law.

15 24. Given its location and options, the Gas Station is a business that the  
16 plaintiff will continue to desire to patronize but he has been and will continue  
17 to be discriminated against due to the lack of accessible facilities and,  
18 therefore, seeks injunctive relief to remove the barriers.

19  
20 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
21 **RIGHTS ACT** (On behalf of plaintiffs and against all defendants) (Cal Civ §  
22 51-53)

23 25. Plaintiff repleads and incorporates by reference, as if fully set forth  
24 again herein, the allegations contained in all prior paragraphs of this  
25 complaint.

26 26. Because the defendants violated the plaintiffs’ rights under the ADA,  
27 they also violated the Unruh Civil Rights Act and are liable for damages. (Civ.  
28 Code § 51(f), 52(a).)

1 27. Because the violation of the Unruh Civil Rights Act resulted in  
2 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are  
3 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §  
4 55.56(a)-(c).)

5  
6 **III. THIRD CAUSE OF ACTION: VIOLATION OF THE CALIFORNIA**  
7 **DISABLED PERSONS ACT** (On behalf of plaintiffs and against all  
8 defendants) (Cal Civ. § 54-54.8)

9 28. Plaintiff repleads and incorporates by reference, as if fully set forth  
10 again herein, the allegations contained in all prior paragraphs of this  
11 complaint.

12 29. Because the defendants violated the plaintiff's rights under the ADA,  
13 they also violated the Disabled Persons Act and are liable for damages. (Civ.  
14 Code § 54.1(d), 54.3(a).)

15 30. Because the violation of the Disabled Persons Act resulted in difficulty,  
16 discomfort or embarrassment for the plaintiffs, the defendants are also each  
17 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
18 (c).)

19  
20 **IV. FOURTH CAUSE OF ACTION: NEGLIGENCE** (On behalf of plaintiff  
21 and against all defendants)

22 31. Plaintiff repleads and incorporates by reference, as if fully set forth  
23 again herein, the allegations contained in all prior paragraphs of this  
24 complaint.

25 32. The Defendants had a general duty and a duty arising under the  
26 Americans with Disabilities Act and the Unruh Civil Rights Act and  
27 California Disabled Persons Act to provide safe, convenient, and accessible  
28 facilities to the plaintiffs. Their breach of this duty, as alleged in the preceding

1 paragraphs, has caused injury and damage as alleged above.

2  
3 **PRAYER:**

4 Wherefore, Plaintiff prays that this court award damages and provide  
5 relief as follows:

6 1. For injunctive relief, compelling defendants to comply with the  
7 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
8 Plaintiffs are not invoking section 55 of the California Civil Code and is not  
9 seeking injunctive relief under the Disabled Persons Act at all.

10 2. Damages under the Unruh Civil Rights Act and/or the California  
11 Disabled Persons Act which damages provide for actual damages and a  
12 statutory minimum of \$4,000. Note: a plaintiff cannot recover under both  
13 acts, simultaneously, and an election will be made prior to or at trial.

14 3. Reasonable attorney fees, litigation expenses and costs of suit,  
15 pursuant to 42 U.S.C. § 12205; Cal. Civ. Code §§ 52 and 54.3.

16  
17 Dated: March 6, 2015

CENTER FOR DISABILITY ACCESS

18  
19 By:   
20 Mark Potter, Esq.  
21 Attorneys for Plaintiff  
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